

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

RICHARD GRANT,
Petitioner

Case No. 1:12-mc-007

vs

Diott, J.
Litkovitz, M.J.

UNITED STATES OF AMERICA, et al.,
Respondents

REPORT AND RECOMMENDATION

This matter is before the Court on respondents United States of America, Internal Revenue Service, and Special Agent Alex Moran's motion to dismiss for failure to state a claim upon which relief can be granted (Doc. 2), to which petitioner Richard Grant has not responded. For the reasons that follow, the undersigned recommends that this action be dismissed with prejudice for petitioner's failure to prosecute and to obey the Orders of this Court.

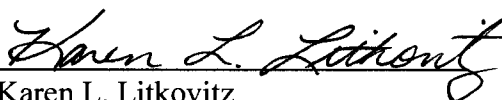
Petitioner initiated this action pro se by filing a petition to quash an IRS third party administrative summons. (Doc. 1). Respondents filed a motion to dismiss in this matter on April 9, 2012. (Doc. 2). On October 2, 2012, the Court ordered petitioner Grant to show cause, in writing and within fifteen days, why the Court should not dismiss petitioner's petition for lack of prosecution. (Doc. 5). The Show Cause Order, which was sent by certified mail, was returned by the United States Postal Service with acknowledgment of service executed and signed for by petitioner on October 17, 2012. (Doc. 6). To date, more than fifteen days later, petitioner Grant has not responded to the Show Cause Order or to respondents' pending motion to dismiss.

District courts have the inherent power to *sua sponte* dismiss civil actions for want of prosecution to manage their own affairs so as to achieve the orderly and expeditious disposition of cases." *Link v. Wabash R.R.*, 370 U.S. 626, 630-631 (1962). *See also Jourdan v. Jabe*, 951

F.2d 108, 109 (6th Cir. 1991). Failure of a party to respond to an order of the Court warrants invocation of the Court's inherent power. *See* Fed. R. Civ. P. 41(b).

Accordingly, the undersigned **RECOMMENDS** that petitioner's petition to quash the IRS administrative summons (Doc. 1) be **DISMISSED** with prejudice pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute.

Date: 10/24/12


Karen L. Litkovitz
United States Magistrate Judge

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

RICHARD GRANT,
Plaintiff

Case No. 1:12-mc-007

vs

Dlott, J.
Litkovitz, M.J.

UNITED STATES OF AMERICA, et al.,
Defendants.

NOTICE TO THE PARTIES REGARDING FILING OF OBJECTIONS TO THIS R&R

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to these proposed findings and recommendations within **FOURTEEN DAYS** after being served with this Report and Recommendation ("R&R"). Pursuant to Fed. R. Civ. P. 6(e), this period is automatically extended to seventeen days (excluding intervening Saturdays, Sundays, and legal holidays) because this R&R is being served by mail. That period may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the R&R objected to, and shall be accompanied by a memorandum of law in support of the objections. If the R&R is based, in whole or in part, upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within **FOURTEEN DAYS** after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F. 2d 947 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140 (1985).

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Richard Grant
PO Box 70424
Richmond, CA 94807

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☒ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail

☐ Express Mail

☐ Registered

☐ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number

(Transfer from service label)

7002 3150 0000 8389 9425

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540